

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
SPECTRUM DYNAMICS MEDICAL LIMITED, : Docket #18cv11386
Plaintiff, : 1:18-CV-11386-VSB-KHP
- against - :
GENERAL ELECTRIC COMPANY, et al., : New York, New York
Defendants. : February 25, 2021
----- : TELEPHONE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE KATHARINE H. PARKER,
UNITED STATES MAGISTRATE JUDGE

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E X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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THE CLERK: Calling case 18cv11386, Spectrum Dynamics Medical versus General Electric Company. The Honorable Katharine H. Parker, presiding. Starting with counsel for the plaintiff, can you please make your appearance for the record?

MR. GREGORY MILLER: Good morning, Your Honor. Gregory Miller, Rivkin Radler, on behalf of the plaintiffs. Also with me on the line, we have Neil Greenblum, Branko Pejic and Jill Browning from Greenblum & Bernstein.

HONORABLE KATHARINE H. PARKER (THE COURT): God morning.

THE CLERK: And counsel for the defendants, could you please make your appearance for the record.

MS. MARLA BUTLER: Yes, this is Marla Butler and with me on the call is Jeff Metzcar, Jesse Jenike-Godshalk, and Brian Lanciault, all of us from Thompson Hine representing the defendants.

THE COURT: Good morning. As you all know, we are making an official recording of this call and you can order a transcript within three days. Also I'd ask that everybody keep their phones on mute unless you're speaking to eliminate background noise, and to state your name before speaking for the benefit of a court reporter who may

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be asked to transcribe this call. The line is open to the press and public on a listen only basis and court rules prohibit the others from recording and rebroadcasting court conferences. Violations of this rule may result in sanctions.

 You all have quite a lot of issues that you've raised in your letter from February 18. We'll go through them today. I want to put one issue, I want to deal with one issue quickly and that relates to the request to admit. I'm going to be issuing a short decision later today, but I'm granting the protective order with respect to the motion to dismiss -- with the motion for a protective order, I'm sorry. Because the requests were not appropriate under Rule 36 and they are unduly burdensome. So you'll see my decision outlining the reasons in more detail later today.

 I also want to just address these letters. There's a lot of, I think that these pre-conference letters should be shorter. I don't want the letters to be creating a lot of work for you. They're intended to really be summaries of issues to discuss. And if I need additional briefing I'll, you know, take the additional briefing. So the joint letter should be limited to six pages and if, and you'll have a chance

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2 to raise issues and, again, if further briefing is
3 needed, we can decide that at the conference. But
4 going forward I want you to limit the letters to six
5 pages and to a more summary of the issues to talk
6 about.

7 So going forward, let's talk about just the
8 issues, we'll start with the plaintiff's issues in the
9 letter. First is the supplemental infringement
10 claims. So what I -- I'm not quite sure what the
11 concern is from Spectrum so I'd like to hear from
12 plaintiffs on this.

13 MR. BRANKO PEJIC: Sure, Your Honor, this is
14 Branko Pejic. Basically what happened is Your Honor
15 was absolutely correct in asking the parties to have a
16 virtual inspection of the actual Veriton as sold and
17 offered for sale in the United States. And that
18 revealed that the Veriton did not operate in the same way
19 as the mockup which was initially accused by GE. And so
20 GE, when they provided their supplemental infringement
21 contentions maintained the same infringement contentions
22 and accused the same mockup device of infringement that
23 could not be sold in the US. And moreover, [REDACTED]

[REDACTED]

[REDACTED]

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THE COURT: Okay, so let me just stop you for a second. The mockup from the -- that was used in the United States is not a real machine, is that, the real, is that right, there's only one real machine that's in use in the United States and it is identical to the one in Israel that was demonstrated through video?

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MR. PEJIC: Yes. For all materials intents and purposes, correct, Your Honor.

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THE COURT: Okay. And so the functionality that you say the mockup, that the mockup had that the actual device does not have is not functionality, that's not something that is going to be sold in the machine in the United States, is that correct?

19

MR. PEJIC: It's not being sold -- correct, Your Honor, it's not being sold in the machine. And moreover, the mockup, as you said, wasn't even a machine, it was running on display simulations and software, just it's a completely different animal.

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THE COURT: Why were you, why was Spectrum showing features that it's not selling, that doesn't

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2 make sense to me?

3 MR. PEJIC: Your Honor, they were not showing,
4 or selling, or offering for sale features because, in
5 fact, if documents we produced to the other side, we
6 couldn't offer this for sale based upon the
7 representations to the US government and customs. So
8 it was never offered for sale. And furthermore, the
9 device, [REDACTED]

[REDACTED] Essentially what it was doing is
11 showing how nimble the machine could be with the arms,
12 but it's not, it was never offered for sale. And it's
13 a different machine than what is actually being sold.
14 It didn't have --

15 THE COURT: But that doesn't answer my
16 question. What's the point of showing features or
17 what it could do if you can't purchase it with those
18 features?

19 MR. PEJIC: Your Honor, I don't have an answer
20 for that. I haven't asked Spectrum. I just know that
21 they never intended that device to be offered for sale
22 or representative of what was actually going to be the
23 commercial device. I mean --

24 THE COURT: That doesn't -- I understand what
25 you're saying, but it doesn't make any sense from a,

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it doesn't make any sense that a business would have people looking at a device functionality that it's not offering.

MR. PEJIC: But, Your Honor, we need to back up a little bit because we're being very superficial in our discussion. The claims of the 595 patent that we're talking about, not only is the movement of the arms, it's the ability to take information at certain points and move the arms in certain places. And the mockup can't do any of that, did not do any of that. And the current device that Spectrum is selling also doesn't do that. So we're really here on, you know, on frolic and detour. I'm not sure why this infringement is being asserted.

You know, obviously I would have --

THE COURT: On the 595.

MR. PEJIC: Correct, Your Honor. And I'd have to say the Veriton is commercially sold, let's not infringe the 595 because defendants did not base their infringement contentions on the commercial device.

THE COURT: Well that I, that's the whole purpose why you showed the commercial device.

MR. PEJIC: Correct, Your Honor.

THE COURT: So what does, what does GE have to

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say about this and the 595 patent?

MR. JEFFREY METZCAR: Yes, Your Honor, this is Jeff Metzcar for the defendants. So, as you know, GE asserted infringement of the 595 based on a video, a public demonstration of a product identified as the Veriton.

THE COURT: Yes.

MR. METZCAR: And that device showed arm movements that were important to the 595 patent. During the inspection, Spectrum was keen to, you know, prove that the actual product could not perform those arm movements. And that's fine, but throughout the inspection they were

[REDACTED]

And moreover, you know, what was going on during the inspection was not actual testimony. So GE promptly served very targeted discovery requests after that inspection to confirm that the device that is actually sold in the United States cannot perform the functions that were demonstrated in the United States. We've represented if Spectrum provides complete responses we would be willing to potentially dismiss that 595 patent from the case, we're just waiting for those responses.

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MR. PEJIC: Your Honor, may I respond?

THE COURT: Let me just, I would like to just ask Mr. Metzcar a few questions. So, Mr. Metzcar, if, I guess there's, in your mind is there a distinction as to whether or not there will be a device offered for sale in the United States that performs these functions versus whether it could potentially be modified to perform those functions?

MR. METZCAR: Well, yes, Your Honor. The reason why we thought it important to serve these discovery requests is because there's a continuing duty to respond or to supplement the response. Our concern is if we just drop the patent immediately and Spectrum has already demonstrated the ability to make a Veriton move its arms in the way that infringes the 595 patent, you know, we don't want to drop the patent and then have a software patch or update delivered the very next week that allows the Veriton to perform in an infringing way. So we served the discovery requests in the hope that Spectrum will clarify or confirm that the device does not operate in the way it was demonstrated and have a going forward obligation to supplement those responses.

THE COURT: Well, okay, so the discovery

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request is an interrogatory?

MR. METZCAR: We served 4 interrogatories and I believe 12 requests for admission that, again, they're very specifically targeted at confirming that the device that is sold in the United States, does not perform in the manner demonstrated in Chicago in 2018.

THE COURT: Okay.

MR. METZCAR: And quite frankly -- oh, I'm sorry. You know, the 30 day deadline to respond -- I'm sorry, go ahead.

THE COURT: So is there, is plaintiff going to respond to that? I assume that these --

MR. PEJIC: Your Honor, in fact, we've already produced 10 documents including the shipping invoices and the manifests showing that the device was a mockup that didn't have any of the features that would be necessary to infringe the 595 patent. And in addition to what we believe to be unequivocal statements and testimony in the inspection, I mean I did understand that to be pursuant to court order, so I do sort of take a little offense at the implication that anyone wasn't telling the truth. But, yes, we're also going to respond to the RFAs and the interrogatories which I'll note does have some contention aspects to them.

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but we'll go ahead and respond to those. But then we anticipate GE dropping this 595 patent because it's not properly in suit --

THE COURT: Sure.

MR. PEJIC: And, if not, we really are considering seriously Rule 11 because plaintiffs, I mean defendant, GE, does not have a good faith basis to accuse the mockup infringement.

THE COURT: Okay. Well I think if you can provide those answers GE can drop the claim. In my mind it would be without prejudice because if this suit ends and you later infringe on the patent, you know, having nothing to do with this case but sometime in the future, that wouldn't preclude a future claim.

MR. METZCAR: We would not require them to provide a covenant not to sue, Your Honor, so I think I agree with you.

THE COURT: Yes. Okay. So it seems like this is really not an issue, this issue, one, in that this claim related to the 595 patent may be, may be moot.

MS. BUTLER: Your Honor, this is Marla Butler, can I just make a point here that I think goes to this issue which you expressed towards the beginning and that's kind of trying to limit what these letters

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cover and the issues that are before the Court.

THE COURT: Yes.

MS. BUTLER: This, Your Honor, is a perfect example of something that is not a dispute and should not be before Your Honor. GE filed this claim based on a public demonstration in Chicago of a device without the information that was provided by counsel after this suit was filed. GE had a perfectly legitimate basis for filing its counterclaim of infringement of the 595 patent. A demonstration of a machine that we were told by counsel is representative of a machine in the United States was shown to us. There were statements by counsel during that video and GE made clear that all we are looking for is the actual evidence that just backs up those statements of counsel. This is an instance where we should have served these interrogatories, requests for admissions, Spectrum responded to them, and assuming those responses are consistent with statements of counsel, the 595 patent will be gone from this case.

But instead what we have is Spectrum's counsel threatening Rule 11 sanctions without even having provided the evidence that will allow GE to drop the patent. I just wanted to say that's a perfect example of the kind of

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thing that shouldn't be before the Court.

MR. PEJIC: Your Honor, may I respond?

THE COURT: No, no, no, I really don't want to engage in mudslinging and so forth, this is not, let's, I've already instructed the parties to just limit the letters to six pages, and I really only -- I really only want to deal with issues that are necessary to deal with in these conferences. So I think that we've dealt sufficiently with this issue one and that within the next 30 days I'll expect that GE is going to be withdrawing the 595 claim.

So now let's go onto this deposition of Mr. Hefetz. So this also appears to not be a dispute because, as I understand it, GE is going to have him appear, am I correct?

MR. PEJIC: Your Honor, this is Mr. Pejic. We simply wanted to put this on the record so that the agreement was memorialized. Because I don't know if Your Honor is aware, but certainly Judge Broderick is, that Mr. Hefetz has been a subject of motions to dismiss and various other issues including dismissal based upon no jurisdiction over him. And so it's important to spectrum to get his discovery and so we were moving under the Hague Convention knowing the

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timeframes in play. And based upon defendants now representing that Mr. Hefetz will appear voluntarily, we're foregoing the ability to pursue the Hague and should they change their minds later we would be in a, how should I put it, in a bad place --

THE COURT: Okay, sure. Okay, that's understandable and that's fine, and it's noted for the record that GE is going to arrange for his voluntary production pursuant to Rule 30.

Okay, so now let's talk about this designation of Dr. Turkington.

MR. PEJIC: Yes, Your Honor --

THE COURT: Also this is another issue that GE says is not ripe yet. So what's going on with this.

MR. PEJIC: Okay. This is Branko Pejic again for plaintiffs. GE identified Dr. Turkington as an expert under the protective order to have access to Spectrum highly confidential information. We went through GE's documentation [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]
[REDACTED] And so after showing all that we brought our objections to plaintiff -- to GE. We had our meet and confer and they told us that they were imminently going to reach out to the Court and seek to address our objections. But we're sitting here significantly later now not knowing whether GE wants to maintain that or not. And, frankly, if they tell us they're withdrawing Dr. Turkington without prejudice to move again to have them brought under the protective order, that's fine, but as it now stands, they could file, you know, a brief on a Friday and we'd be scrambling and blindsided. We just sort of want to know --

THE COURT: Well you can always, if you need time to do something you don't need to scramble. I'm not going to let you be blindsided. There's regular monthly conferences and if you need additional time, I'm not going to deny you additional time if there's good reason for it. So it seems as if this, this issues is not ripe and when GE makes a decision about whether it's going to utilize Dr. Turkington, I take it GE still hasn't decided as of today?

MS. BUTLER: That's correct, Your Honor, this

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is Marla Butler. I'm sorry. I'm sorry, Jesse, I cut you off, this was your issue, you go ahead.

MR. JESSE JENIKE-GODSHALK: That's okay, I'll just echo what Marla just said, this is Mr. Godshalk. Yes, we have not made a decision yet about, with regard to Dr. Turkington.

THE COURT: Okay.

MR. PEJIC: And this is Mr. Pejic, Your Honor, thank you for letting us know that. My concern was under Your Honor's discovery rules with the two-day turnaround, that we could get blindsided and have to respond very expeditiously. But thank you for clarifying and I think we're okay.

THE COURT: And also I expect that counsel on both sides will show each other courtesy. So if you simply file a letter or ask your adversary, you know, we'd like four days or whatever to respond to this, you can always, I'm not going to deny reasonable extensions of time, okay, particularly if it's a complex, you know, complex issue.

MR. PEJIC: Understood, thank you very much.

THE COURT: So let's go to the next issue, this production of documents regarding the dates of conception. I think that with respect to the 595

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patent sort of since that claim is going to be withdrawn, we're really just talking about the 439 patent. And as I understand it, GE has produced the dates when it first contacted counsel about preparing the patent prosecution and that would, that date would give everyone an idea about when the concept, that the concept was already baked and that, you know, you were going to prepare it for this prosecution.

So what additional, what additional information is GE producing because there's some additional information that Spectrum has requested here?

MR. JENIKE-GODSHALK: Yes, Your Honor, this is Jesse Godshalk. So we have produced additional documents. At Spectrum's request we specifically went looking for documents evidencing the conception of the 439 and 595. I think there was specifically a request for lab notebooks and invention disclosures, drawings, that sort of thing.

THE COURT: Right.

MR. JENIKE-GODSHALK: Yes. We went looking for that, we collected it, we produced it, you know, I think, in fact, there's agreement between the parties that we have produced documents that bear on the

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conception of the two asserted patents.

THE COURT: Okay. So what else, Mr. Pejic, do you need with regard, let's just focus on the 439 because I'm operating under the assumption that the 595 is going away and that will reduce discovery, obviously?

MR. PEJIC: That would but there are two issues that are being somewhat mixed up here and we have to unpeel the fact that separate and apart from the 439 and 595 that were asserted, there are also the misappropriated GE patents that are subject to Spectrum's Section 256 correction of inventorship claim.

THE COURT: Um-hmm.

MR. PEJIC: And we're entitled to know the dates of conception of those additional 15 patents because that bears directly on whether or not it's independently invented or conceived of, as alleged by GE, or whether that invention is truly based upon Spectrum information and thus Spectrum should be named or Spectrum individuals should at least be named as co-inventors to those patents.

THE COURT: Sure, I understand, but I don't understand GE to be objecting to the production of

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that information. What I understand them to be saying is that they are collecting that information.

MR. JENIKE-GODSHALK: That's correct, Your Honor.

MR. PEJIC: Well, Your Honor, that's the first I've heard of that. And so I appreciate the representation and do we have a sense of when those documents will be produced?

MR. JENIKE-GODSHALK: I'm not going to respond to your question, that's not how this works. But --

THE COURT: So Mr. Godshalk, you're collecting that information as to the 17 patents, is that right?

MR. JENIKE-GODSHALK: That is correct, Your Honor. We have been collecting, in collecting information from GE we have been collecting documents [REDACTED] and to the various patents that are at issue. We're collecting everything we can get from GE on those issues. And then we're individually reviewing the documents and producing them. And, you know, we've already produced 57,000 documents in this case and our review and production continues.

THE COURT: What's the volume that you're reviewing right now, do you know?

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MR. JENIKE-GODSHALK: Ooh. You know, Your Honor, I don't.

THE COURT: Yes, I just wanted to get a sense of that, you know, if you have a million, if you have, you know, 500,000, just, 2 million, I don't know, because 17 patents is, that's a lot. So I just am, I don't have a good sense of what the volume, the volume would be.

MR. JENIKE-GODSHALK: Yes, Your Honor, this is Jesse Godshalk again. You know, I just couldn't say. I couldn't even, I don't even want to try to offer a ballpark because I really just don't know what is currently, you know, in the pool of documents that are being reviewed. I just don't have a good sense of that volume currently.

THE COURT: So you don't know, I mean, but you collected, you've collected information about these patents and they're being reviewed, they're on the platform now, or are you still collecting, as well?

MR. JENIKE-GODSHALK: We are still collecting, as well, Your Honor. I mean we have collected and are continuing our collections.

THE COURT: Okay. So in, are the document reviewers separately marking the documents as to what

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patents they belong to?

MR. JENIKE-GODSHALK: No, we are not going at that granular level because there are already I think 20 or 30 different issue tags that they are tagging.

THE COURT: Yes, it can get very cumbersome if there's too many issue tags. Okay. So and do you know the rate of review? I mean are you doing like 60 documents an hour or do you, how is it, is it taking longer than normal or pretty average pace?

MR. JENIKE-GODSHALK: I think it's about an average pace. I think we have a team of just maybe five or six reviewers and I mean we've been making productions, you know, pretty sizable productions every, maybe every three weeks.

THE COURT: Okay. Okay. So when do you anticipate completing the production?

MR. JENIKE-GODSHALK: I mean I guess I don't have a date for you right now, Your Honor, just because, again, I'm not sure exactly how many documents we still have in the hopper. And I know that we are still collecting from at least one person I can think of. So I mean I guess I don't have a clear date in mind at this moment.

THE COURT: Okay. So what I'd like GE to do

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2 is at the next case status conference, I'd like you to
3 have a report on where you are on the collection and
4 what your estimated completion date is for the
5 production of documents. And I, by then the 595 claim
6 should go away and I don't know if you'll be able to,
7 you know, segregate and remove those documents from
8 the review set because that would obviously cut review
9 time. So but if you could have your document folks
10 take a look at that and be prepared to report on that.

11 Similarly, I want to ask Spectrum where it is
12 on its production. You just did a large production of
13 350,000 documents?

14 MR. PEJIC: Yes, Your Honor.

15 THE COURT: Is that the entirety or are you
16 still collecting and reviewing as well?

17 MR. PEJIC: I think we have two more
18 custodians to review. I don't know if we have their
19 documents yet. I believe we do, I know I've had that
20 discussion so it's in the process. But we have gone
21 and I believe we're substantially complete. Maybe,
22 don't hold me to it, but I think 60 percent, 70
23 percent complete.

24 THE COURT: Okay, so I'd like you, I'd like
25 Spectrum, as well, to be able to report at the next

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case management conference as to where you are and what your estimated completion date is. Because once the parties have exchanged all these documents, then you can really get to the, you know, depositions. And it's going to be important to complete this for claim construction as well.

MR. PEJIC: Your Honor, this is Mr. Pejic. One point, and we'll get to it a little bit later, but we have mentioned that we were thinking about and considering, well we are going to pursue a preliminary injunction against the GE device and right now we're seeing very little [REDACTED]

[REDACTED] We don't have any manuals, software manuals, and we've asked for this quite a bit as part of the technical discovery. But we would ask that GE endeavor to provide that in a timely manner, as well.

THE COURT: Okay, let me hear from GE on this.

MR. JENIKE-GODSHALK: Yes, Your Honor, this is Jesse Godshalk again. We just produced recently our, the so-called technical documents. And that was 35,000 documents. So my understanding is that many of those documents or most, perhaps all relate to the so-called accused GE device, [REDACTED] So I don't understand

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the, you know, the accusation that there are few documents relating to that device. I mean they should have tens of thousands of documents about the device.

THE COURT: Okay, when were those produced? When were those produced, Mr. Godshalk?

MR. JENIKE-GODSHALK: I believe it was either February 8 or February 9.

THE COURT: Okay. So, Mr. Pejic, have you had a chance to look at those documents?

MR. PEJIC: Yes, Your Honor, and most of those documents, as I was going to say, relate to the development of the device. And I, you know, we do have some problems with that production but it is providing relative responsive information. But what we're not seeing is the subsection of that discovery [REDACTED]

[REDACTED]

[REDACTED]

THE COURT: Okay. [REDACTED]

[REDACTED]

[REDACTED]

MR. JENIKE-GODSHALK: Your Honor, I'm not sure. I mean I would assume that there was something that, I mean I guess I should say as to your first question, I'm not sure. I assume that there was a

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2 [REDACTED] Certainly,
3 two the extent that there was, that is something that
4 we are collecting and would produce. I mean we are
5 collecting, as I said, all documents relating to this
6 device. So, [REDACTED]

[REDACTED] that, you
8 know, we will, we have collected it or will collect it
9 and are producing it.

10 THE COURT: Okay, but let me ask, I mean this
11 isn't, I guess there's two things, two thoughts I have
12 about this. One, it shouldn't be difficult to get
13 [REDACTED]. And, two, any
14 motion for a preliminary injunction I think would be,
15 a preliminary injunction would be moot [REDACTED]
[REDACTED]

17 So I'm not, so Mr. Pejic, I don't know about
18 the timing of this, of this preliminary injunction
19 motion that you're contemplating. I don't know whether
20 it makes sense to do that, to have that kind of motion
21 practice now. You're seeking injunctive relief in the
22 suit generally, so that is relief you can get, but I'm
23 not sure of the necessity for an injunction motion at
24 this point [REDACTED]

[REDACTED] as I understand it, it costs a

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lot of money to build these machines and some time to build the machines. [REDACTED] that doesn't mean the machine is necessarily going to be marketed or sold the next day. But maybe I'm wrong about --

MR. PEJIC: Your Honor, this is Mr. Pejic. GE can certainly tell us differently, but my understanding is GE is actively, how should I say, engaging people in regards to launching the imitation device. And also, [REDACTED]

[REDACTED] So I think it's highly unlikely [REDACTED] and our concern is GE is taking orders now and is going to be ready to enter the market certainly almost immediately [REDACTED] and at that point in time the opportunity for a preliminary injunction, you know, has been missed, you know, you can't un-ring a bell.

THE COURT: Well, the Court can order injunctive relief and cancel the orders if it's infringing.

MR. GREENBLUM: Your Honor, this is Neil Greenblum, if I could just add one thing?

THE COURT: Sure.

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MR. GREENBLUM: If GE will tell us, if counsel for GE will tell us that there are no machines in America right now, that might -- that might address your concern.

THE COURT: But that's what I thought that they previously represented. Ms. Butler, am I correct?

MS. BUTLER: [REDACTED]
[REDACTED] I'm sorry, this is Ms. Butler for the transcript.

THE COURT: Right.

MS. BUTLER: So I don't know the answer to that question. We can certainly find out, but I don't know how the presence of that machine in the United States tells us anything about the appropriateness of a preliminary injunction or any of the other issues.

MR. GREENBLUM: It says whether or not sales are imminent [REDACTED]

THE COURT: Right, but this is a risk taken on by GE actually, as I see it, Mr. Greenblum and Mr. Pejic, the risk is GE -- if GE spends money on this machine and loses this suit, then it's wasted a whole lot of money.

MR. GREENBLUM: Well, Your Honor --

THE COURT: You're seeking an injunction.

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Regardless, what I'd like GE to do is to locate [REDACTED]

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[REDACTED] and to produce

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that. If it was already, you know, already intending

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to produce it, that should be easy to locate and

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produce that before the next conference.

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MS. BUTLER: We can do that, Your Honor.

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THE COURT: Okay, thank you.

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MR. GREENBLUM: Your Honor, this is Neil

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Greenblum again. I think that Your Honor is

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overlooking the fact that [REDACTED]

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[REDACTED] it's proof of

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the trade secret misappropriation. And so [REDACTED]

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[REDACTED] we assert has misappropriated features in

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it. And related to that --

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THE COURT: Okay, so you're getting this

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information and I've ordered, [REDACTED]

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[REDACTED], the production

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to be expedited before the next conference. So you'll

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have a chance to look at it and then to the extent you

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want to make a motion, then you can make a motion.

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MR. GREENBLUM: Your Honor (indiscernible)

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apprehension. The [REDACTED] is a relatively

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2 superficial document that does not include what's
3 inside the machine to any specific degree. That, it's
4 a very big difference between that and a drug
5 application. The [REDACTED] is at a very
6 superficial level. And so what we need are the
7 technical documents that went into the machine, and
8 those are what we are not getting.

9 THE COURT: Well you've gotten 35,000
10 documents thus far, you've gotten GE's commitment to
11 produce it, it is producing, and you're going to get
12 -- so there is no dispute here, you're getting these
13 documents. And at the next conference both sides are
14 going to tell me where you are in getting to
15 substantial completion. So you're getting these
16 documents. So this is a premature issue.

17 MR. GREENBLUM: Your Honor, as to the 595 --
18 you mentioned in passing that if the 595 drops out
19 that the documents related to it are not so relevant.
20 Whether or not GE is able to segregate them is a
21 different issue. But I will tell you once again, Your
22 Honor, the 595 is a misappropriated patent and so we
23 are entitled to documents relating to that fact.
24 Whether or not they are suing us on it or not, it's
25 one of --

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THE COURT: That's one of the 17 you're saying
has your --

MR. GREENBLUM: Yes.

THE COURT: Okay. All right. Okay, I'll
stand corrected on that.

Okay, so let's next go to item 7, this
protective order modification.

MR. PEJIC: Your Honor, are we skipping 5?

THE COURT: Five being the production of
documents evidencing GE's personnel's agreement to be
bound by the terms of the agreement? Well I've
already told you what I'm doing with the RFAs --

MR. PEJIC: Correct, Your Honor. This is Mr.
Pejic. I just wanted to point out one thing. In the
documents that they have cited here, I've seen them,
there are no NDAs actually being provided that we've
located. And in particular, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] that underlies this suit was
enforced. So I, based upon this chart I can't tell
whether those people [REDACTED]
[REDACTED]

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██████ I mean one would argue that you can't agree to be bound by an agreement not in force. So those folks that got Spectrum information, you know, that's a technical violation even. So what we're --

THE COURT: So you've gotten your proof of a violation is what I'm hearing.

MR. PEJIC: It's a technical violation because, based upon what I see here, [REDACTED]

THE COURT: Okay, so but what are we talking about? It sounds like you have, you now have proof. You're getting the proof, you're getting the documents.

MR. PEJIC: Well I don't know that I'm going to get the NDAs. I've asked for them many times and they have yet to be produced.

THE COURT: Well if they can't produce them and there's a violation, then that's the -- that's your case, isn't it?

MR. PEJIC: Your point is well taken, Your Honor.

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MR. BRIAN LANCIAULT: Your Honor, this is Brian Lanciault for the defense. I do just want to clarify, you know, to Mr. Pejic's point, [REDACTED]

[REDACTED] But, further, I do just want to make clear for the record that the technical violation they're claiming here is not a claim that has been pleaded, you know, it's not in this case under the amended complaint.

MR. PEJIC: This is Mr. Pejic. I would beg to differ, it was a breach of contract to --

THE COURT: Okay, you know, counsel -- counsel, we're not, we're not arguing about whether something is in the pleadings or not here. Let's just go on to the discovery issues. So in terms of number 7, this protective order modification, I guess what I -- what I'm wondering is why do you, why is this modification necessary or appropriate?

MR. PEJIC: Well our concern is in bringing, in seeking the PI in this suit, the Court may find or rule that it's, we're not, we can't bring it and it's too late, or we can't bring it without leave under Rule 15. And so in that situation, we would be forced to seek the preliminary injunction -- the preliminary injunction in a companion and related case. And in

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that sense we don't want to have to go through
discovery again, we would just like to use the
discovery here in pursuing that preliminary injunction
in a companion case.

THE COURT: Well we've already talked about
the -- we've already talked about the preliminary
injunction --

MR. PEJIC: Correct, Your Honor.

THE COURT: So I think that this is, you need
to get the information because you don't even have the
information yet to move on this basis. That's what
I'm hearing.

MR. PEJIC: Your Honor, this is Mr. Pejic,
Your Honor is pointing out the dilemma we face.

THE COURT: So I'm not going to rule on
modifying the, modifying the protective order at this
point, it's premature. You're getting documents and
then we'll take it from there.

MR. PEJIC: Understood, Your Honor.

THE COURT: Let's move on to defendants'
topics, this is the specificity of the charts of trade
secrets. I have a copy of the chart, it's pretty detailed.
So I'm not sure, in terms of what GE is requesting, I
think it's a, I don't know that it's appropriate, this

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2 is not really a discovery issue for the Court to rule
3 on. What I understand Spectrum to have done is it's
4 outlined its trade secrets and the chart is very
5 specific, you know what they are, but Spectrum raises
6 a good point here that if in the course of discovery
7 it learns that there's non, learns from nonpublic
8 information that there is some other trade secret that
9 was misappropriated, why should they be barred from
10 asserting that? I mean they could assert it is as a
11 new claim, I suppose, a new cause of action, but why
12 wouldn't that be, why would it be inappropriate to add
13 that? It's one thing to say they're not adding any,
14 unless they discovery something through previously,
15 you know, nonpublic information, a totally different
16 trade secret.

17 So I don't know that this really requires a
18 ruling right now. There's no specific changes that
19 Spectrum is proposing. I'm not inclined to allow
20 discovery or to limit claims that are hypothetical at
21 this point.

22 MS. BUTLER: Your Honor, this is Ms. Butler.
23 This issue I think is much narrower than perhaps is
24 apparent from the parties' letter. We're not
25 addressing in that letter and what we're bringing to

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2 the Court at this point any subsequent alleged trade
3 secrets that Spectrum wants to assert. We'll stay
4 that for when they, if and when they want to assert
5 them. Our focus is really on the trade secrets that
6 are in the case right now.

7 Your Honor I think agreed with us to some
8 extent at least that the trade secrets that were in
9 the amended complaint could use some more specificity.
10 And what we got from Spectrum in this February 2nd
11 table of trade secrets, were certainly they added
12 documents that purport to show these alleged trade
13 secrets, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] And we're fine with that, Your
17 Honor, but our concern is we need to start building
18 our defense and we need some boundaries around what
19 these alleged trade secrets that are in the case right
20 now, what exactly they are.

21 And so all we're looking for is just
22 confirmation that as to trade secrets I think A
23 through R that are in this table of trade secrets that
24 was produced to us and provided to the Court, these
25 are the trade secret and Spectrum is bound to its

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description of those trade secrets so that we can start building our defense. I'm not addressing any additional trade secrets that they may try to insert into the case at a later time.

THE COURT: Okay. Well I think, I think I've already stated that Spectrum is bound by the trade secrets as described in this chart. But as Spectrum points out, to the extent there are additional documents located that support the use of fact of the trade secrets as described, of course they can add documents, that's --

MS. BUTLER: Understood.

THE COURT: (indiscernible) that.

MS. BUTLER: Understood, Your Honor. And that is, we're not challenging that, we're not asking the Court to say that they can't add documents. We understand that discovery is ongoing. It's really just as to the description of the trade secret so that we know what the boundaries are so that we can start building our defense.

MR. GREENBLUM: Your Honor?

THE COURT: Yes.

MR. GREENBLUM: This is Neil Greenblum, can I add one thing?

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THE COURT: Sure.

MR. GREENBLUM: Last time I ended off by giving you a history of the case, I'm not going to do that. But Your Honor should be aware that there are two categories of information, there are trade secrets and then there's what's called Spectrum confidential information.

THE COURT: Um-hmm, sure.

MR. GREENBLUM: Spectrum confidential information is information that was provided to GE of, I'll be very basic, hey, GE, we're going to be making a machine and it's going to have these features, whatever they are. That knowledge alone was knowledge that was protectable, that was protected and protectable. And so this is, as I said the other day, these trade secrets are one aspect, but the fact that we have timelines, that we did simulations, that we did all kinds of analysis that we provided to them, that's, they should not be allowed to sell the machine because they knew we were going to sell a machine of this type. And they then --

THE COURT: I don't really understand that.

MR. GREENBLUM: Okay.

THE COURT: Just because you are, you can't

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get rid of competition because, just because they know that you're developing something, so what? That's not, I don't think that's what the law says. They can't use your confidential information, you know, to compete against you, that would be unfair competition. But --

MR. GREENBLUM: That's exactly what happened here, Your Honor. The very piece --

THE COURT: Okay, that will be subject to proof.

MR. GREENBLUM: Of course. And at the, in this case the very people, Your Honor, who did the due diligence, were the people we now see who planned their project. So there's a very basic issue here --

THE COURT: Okay, that's what you'll argue, but there is no issue on the trade secrets. On the trade secrets, as they're described in the chart, and you did provide a lot of detail in that chart, those are the trade secrets at issue. I understand it's separate from, from confidential information that doesn't rise to the level of trade secret but, you know, that's subject to, you've got to get discovery on that.

MR. GREENBLUM: That's all I wanted to say,

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thank you, Your Honor.

THE COURT: Okay. Okay, so then, let's see, where are we next. Next is the deficiencies in Spectrum's document production. So here this seems to me to be somewhat of a nonissue because there was this large production that GE hasn't had time to go through. So what I, what I'd like to do is to just table this issue about deficiencies until GE has had time to go through until next, until you have a meet and confer about this. But over the next month, what I want both sides to do is focus on getting to substantial completion, being prepared to report on it, and then you can talk about deficiencies. But right now it seems to me this is a premature issue.

MS. BUTLER: Might I respond to that, Your Honor, this is Ms. Butler?

THE COURT: Sure.

MS. BUTLER: Your Honor, we certainly had raise deficiencies in a letter to Spectrum's counsel and the deficiencies is not the issue that we're intending to seek some clarification on. In response to our deficiency letter, we got a response from Spectrum's counsel indicating that they were producing \$350,000 documents which is a very large volume of

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documents, even in a case of this size. And so all we asked is for before we start, because the review of these documents will be lengthy and very expensive for GE to review not 350,000 pages, 350,000 documents.

So before we begin this review, all we ask Spectrum's counsel is to confirm that this is not a document dump. That they didn't just run some keyword searches and then whatever came up pull out the lawyer names and produce the documents, but that they actually engaged in the process that we understand is required in this Court to review individual documents for relevance.

We have asked Spectrum's counsel that question directly three separate times and we have not gotten an answer yes or no. This reeks of a document dump, Your Honor, and what we want to avoid is a situation where GE spends potentially \$100,000 reviewing 350,000 documents to learn that it's a document dump and then we're before Your Honor seeking fees for that conduct. If we can confirm that they reviewed each individual document for relevance, it's a nonissue. If they didn't, it's a document dump, then we want them to fix it before we engage in this process of review.

THE COURT: Okay.

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MR. PEJIC: Your Honor, can I respond?

THE COURT: Well, first of all, let me tell both sides what I expect is that you'll be identifying, normally under the rules you're identifying the base numbers of documents that are responsive to various document requests. Have the parties done that?

MR. PEJIC: No, Your Honor.

THE COURT: Has Spectrum done that?

MR. PEJIC: Neither party has, Your Honor.

THE COURT: Well why not?

MR. PEJIC: I'm speaking, this is Branko Pejic, I'm speaking for myself is I didn't understand that to be the procedure and I apologize if it is.

MS. BUTLER: And for GE, Your Honor, this is Marla Butler again, I will say that with a case this size, given the magnitude of issues, you know, I have done what you just described in cases that didn't have as many issues and as many documents. My view here is that taking that on in a case of this magnitude honestly would be pretty burdensome for both sides and is not likely, that list of Bates numbers honestly is not likely to be very accurate because of the volume of documents and the number of issues here. And so

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that's why we didn't request that of Spectrum. We are taking on the burden for documents that are produced by Spectrum of reviewing the documents and determining, you know, what they relate to ourselves.

You know, what we did note in that first kind of production of less than 2,000 documents that Spectrum has made so far is that there are a lot of documents that are completely unrelated to this case and we don't want that to be the case for this enormous production of 350,000.

THE COURT: Well is Spectrum making a relevance determination, are its document reviewers doing that exercise?

MR. PEJIC: Your Honor, we have worked with the client to identify what we believe to be the relevant sets of files. We have produced them. We have been over inclusive, but what I'm actually hearing here is Your Honor asked the parties about ESI a couple of hearings ago and I think the parties misunderstood each other as to the procedure for production set out in the protective order. And I'd ask Your Honor that perhaps the parties should engage in a discussion of keyword searches and that may resolve this issue here. Because I think that that's

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2 what I'm hearing.

3 THE COURT: That's not what you're hearing,
4 Mr. Pejic. So if, this doesn't have to do with
5 keywords, this has to do with once you've collected
6 and segregated the review population, then your
7 document reviewers are marking them as responsive or
8 nonresponsive, relevant or not relevant to the
9 document request --

10 MR. PEJIC: And we did that to the best of our
11 ability and I'd note in looking at GE's production,
12 we're finding several documents, well (indiscernible)
13 lots of documents that are irrelevant, lots of dupes,
14 and --

15 THE COURT: Well, unfortunately in ESI, and
16 unfortunately in discovery, the technology is not
17 perfect. And so often duplicates, you know, the
18 deduping is not perfect. And much of discovery ends up
19 producing marginally relevant or potentially
20 irrelevant documents. I mean this is the real problem
21 with electronic discovery and discovery in general.
22 And it's a real problem with overbroad requests. So to
23 the extent that parties don't target the request and
24 are worried about incomplete collection and
25 production, there's a tension there and it results in

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these much larger productions, much larger time, you know, longer time to review things. And, you know, most of what's produced is never, ever used at trial or in depositions. And I think everybody on the call are serious lawyers and know this to be true.

So I think that there is nothing more to talk about in this issue, on this issue. It sounds like most sides have review teams that are reviewing for relevance or not relevant and let's move on.

MS. BUTLER: Your Honor, can I just ask one question on this? Do I understand Mr. Pejic to have confirmed that their review team is reviewing on a document by document basis each document for relevance and responsiveness?

MR. PEJIC: To be honest with you, Your Honor, I don't understand that question. Because the first aspect is, the question is, is this like the old days when you sit in the conference room with a banker's box of documents and look at each one, no, we did not do that. But if GE's question is did we get the documents and review them, and then produce them after running searches for both relevance and privilege, yes, that's what we did. And to the extent that they're complaining about these junk files or whatever

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they are, as I told Your Honor, I'm not good with technology but the parties did agree how the documents were supposed to be produced and that's pursuant to the protective order. And I've offered at every level if they would like us to remove certain files, happy to do so, but in my experience, it's been you do not touch documents after they have been through the vendor and to be produced because there's imbedded stuff, there's different things, and the next thing you know we're in a big fight and a motion to compel because a video doesn't work.

THE COURT: But your, you have a document review team, do you not?

MR. PEJIC: Correct.

THE COURT: And that document review team is marking documents on a review platform from production, is that correct?

MR. PEJIC: Correct, Your Honor.

MS. BUTLER: But, Your Honor, are they reviewing each of, are they reviewing --

THE COURT: This is, I don't really want to have this discussion anymore because you need to look at the documents, Ms. Butler, and it sounds to me like they have a review team in process. If the review team

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is not looking at individual documents, I don't know what they would be doing, otherwise would be doing. There are search terms applied, there's a review of documents and they're produced. So that's, there is no point in a review team if you're just doing a document dump. So this matter is, we've talked enough about it.

Let's move on to the specificity of the invalidity contentions. Here, with respect to the 595 patent, that may be, I guess what I'd want to understand, the 595 patent, you're saying, Spectrum is saying still has trade secrets in it but GE may be withdrawing its patent infringement claim as to that patent. So what is it that, what is the issue here, Ms. Butler? Spectrum says this argument is not really, this is a nonissue now?

MS. BUTLER: Your Honor, and I'll limit my discussion to the 439 patent, assuming that we're not going to get complete responses from Spectrum and we'll be able to withdraw the 595 patent. But in Spectrum's invalidity contentions as they stand right now, Spectrum has identified, I think it's 11 or so individual references that Spectrum calls, quote, "invalidating prior art to the asserted claims of the 439 patent." In other words, they've identified these 11 or so references as each invalidating the 439

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patent.

THE COURT: Okay.

MS. BUTLER: Spectrum's produced one claim chart for only one of those references, and that's what we've been referring to as the 721 PCT application. All we are asking, Your Honor, is for clarification -- well, I take that back, we're not asking just for clarification, we are asking spectrum to do one of two things. Either for the other 10 references that they did not chart, to provide claim charts for them. Because GE has no way of knowing which element of which claim is found where in each of those prior art references. So we want Spectrum to either chart all of those references, or we want Spectrum to amend its invalidity contentions to be consistent with what's it's been telling the Court on these calls. And that is that there is only one invalidating reference that they're asserting for the 721, or for the 439 patent, and that's that 721 PCT, and these other 10 references that they're contentions call very clearly invalidating prior art, they're not actually asserting those as invalidating references.

THE COURT: Okay.

MR. PEJIC: Your Honor, this is Branko Pejic,

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may I respond?

THE COURT: Yes, please.

MR. PEJIC: We've been down this road 10 times at least, maybe counsel isn't familiar with patent law, but we've made it very clear in the claim charts which are primary references, which if the references apply to the limitations, and in view of the state of the art. The state of the art is not being applied against the claims, themselves, the state of the art is showing what one skilled in the art would have known at the time of invention. And that's the proper analysis for an obviousness analysis. So there's nothing improper.

We'll go ahead and make that more clear but, frankly, I thought it was absolutely clear out of the claim charts. But if defendants' counsel wants to continue to muddy the waters, we're more than happy to clear that up.

THE COURT: Okay, again, I would prefer that you stop the mudslinging type presentation. I just want to know whether or not, you know, you can provide clarification on which element of which claim is addresses in the prior art. And if the 10 references to the other prior art aren't applicable, then you

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should say so.

MR. PEJIC: And this is Mr. Pejic, Your Honor, I thought that was clear from the claim charge that calls that the state of art and doesn't apply them to the claim limitations. Because that's just been my practice for the past couple of decades with these things. But we'll --

THE COURT: Okay, so what I'm hearing from you is that there's one prior art and the other things are just state of the art?

MR. PEJIC: Yes. To show what one skilled in the art would have known at the time of invention.

THE COURT: So the one that you've noted, that is, in fact, the reference, the 721 PCT, that's the prior art?

MR. PEJIC: Yes, we refer to those as primary references because they serve the basis of the rejection or the invalidity argument.

THE COURT: Okay, so if you can just make that clarification on your claim chart, then we'll, I think that should satisfy GE.

MR. PEJIC: Thank you, Your Honor.

MS. BUTLER: Your Honor, I think that will. Just so we're 100 percent clear, that list of

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invalidating prior art references, it lists, and I counted them while Mr. Pejic was talking, it lists ten individual references and then it says state of the art. So in other words, we're not talking about the reference to state of the art, we're talking about those other nine references on page two of the pleading, not in the charts, itself, because they didn't provide charts for them, on page two of the pleading those non-charted nine references should either be removed or claim charts should be provided for them.

MR. PEJIC: No. No, no, no, no.

THE COURT: So what I want to understand, Mr. Pejic, is what are those nine references, are those other --

MR. PEJIC: Those are the state of the art. Honestly, I don't have the contentions, the claim charts in front of me, but I'm representing to the Court that those are state of the art and they're not primary references being applied.

THE COURT: Okay.

MR. PEJIC: And to the extent that these claim charts aren't clear enough, we will supplement them and make that clear that we have primary reference and

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then what the state of the art is showing what one skilled in the art would know.

THE COURT: All right, and make clear that this is the only primary art you're relying on, or these are the only primary arts, you know, if it's more than one. But if it's just this one make that clear, okay?

MR. PEJIC: Absolutely, Your Honor, I'll try to make it as clear as I have on the phone.

THE COURT: Okay, thank you. So let's look at the next issue which is the requests for admit, I've already addressed that. Then the access to former employees, I'm not sure I'm happy with either party's solution. It seems to me that Spectrum can talk with former employees and in each case there's some ethical guidelines for counsel where, you know, you identify who you are and that you would tell any employee, former employee or supervisory employee that you are not seeking and you do not want them, you are instructing them not to reveal privileged information. But it seems to me, the way I've handled this before, is that there's just an agreed upon, agreed upon statement that's provided and as in my former life as a litigator, if this exercise was being done, counsel

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who was reaching out to those, that population, would want to have something documented about what warning was said to avoid any kind of blame of overreach or ethical violation. So it seems to me that this perhaps should just be dealt with as what is the statement that would be made or the warning, if you will, that would be made to the former employee before talking with the former employee.

MS. BUTLER: Your Honor, we're happy to kind of work with Spectrum to come up with something in that regard. Our main concern is that oftentimes, you know, these employees may have been gone from GE for a long time. And they may have information that is privileged information but individuals, especially when they've been separated from the organization for some time, may not, number one, appreciate what exactly is a privileged communication, and number two, may not even recall that its privileged. And so what we're trying to do is get in front of this to avoid a former employee unwittingly communicating privileged information.

The second thing that we're trying to accomplish here is that, so Spectrum has already sued five individual employees of GE. In other words,

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they're passed suing individuals for misappropriation. And we think that it's important for any former employee, before they have a conversation with Spectrum's counsel with the lawyers that sue individuals for misappropriation, for them to understand the implications of that phone call.

What we don't want is this combination of them divulging privileged communications not knowing that they're privileged and walking themselves into being sued by Spectrum. And so we believe that it makes sense for the protocol that we've set up to avoid, or that we have suggested, Your Honor, to avoid both of those concerns.

MR. PEJIC: Your Honor --

THE COURT: I think, hang on a second. I think it's unnecessarily burdensome, what you're proposing. Let me just, and just hang on one second because I have another case where I just did something like this, I'm just looking now. Just bear with me for a moment. I think this is it, hang on.

Okay, so what I've done recently is that parties are, say parties are free to interview former employees who are not represented by counsel, providing that the requesting party does not exert

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undue influence on the former employee, and advises the former employee prior to any substantive communication that the requesting party is an attorney in this lawsuit and specify what party they represent, that the former employee is under no obligation to speak with counsel and that any conversations are voluntary. That the former employee should not disclose any confidential or privileged information, and that the former employee is free to seek representation of counsel. And then the term privileged information obviously would mean attorney-client privilege communication or work product. And confidential information I think, you know, you can put a plain language. So it would be information not generally known or available to the public that is used directly for business, provides the entity with an economic advantage, and that the entity takes reasonable effort to protect from public disclosure. And should any former employee inadvertently disclose privilege or confidential information, that information shall automatically be deemed protected by the protective order. And if the, if there is an inadvertent disclosure there will be a notification to the other side.

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And so that's what I've done in the past, that kind of order. And I think something like that could work well here.

MR. PEJIC: Your Honor, for Spectrum I think that that's a great approach.

MS. BUTLER: Your Honor, GE can work with that. I think that the devil is in the details, so to speak, the parties will have to get together and agree on, you know, the script or whatever we call it. But we are obviously going to work with Spectrum to get to something agreeable.

THE COURT: Well what I can do is I can simply issue an order. I have done this very, I have done this recently and I can issue an order like this. And if you want a modification of it or agree to a modification of it, you can, of course, do that and propose it to me. I'm thinking about making it easier for you so that you don't have to get into disputes about it.

MR. PEJIC: Your Honor, this is Mr. Pejic for Spectrum, I think that that's a great approach and we would appreciate Your Honor's guidance.

MS. BUTLER: Your Honor, the only reservation or hesitation I have is the issue of confidential

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2 information. All of these individuals are GE
3 engineers who are working on products, and until it's
4 public all if it's confidential. And I would just
5 want to make sure that the definition --

6 THE COURT: (indiscernible) because we're
7 talking about former.

8 MS. BUTLER: That's right. But what they did
9 while they were at GE -- absolutely, Your Honor, but
10 what they did while they were at GE, they're engineers
11 working on then developing GE products. And at least
12 at that time, those details were confidential. And to
13 put, I just want to have a definition of confidential
14 that -- that makes sure that that's clear.

15 THE COURT: So what I'm going to do is I'm
16 going to issue an order about this, a protocol. And if
17 you have some issue with it, you can raise it with me
18 and I'll consider a modification. But I'll include a
19 definition of confidential information similar to what
20 I've stated which is a pretty conventional definition.
21 And remember, this is information that's got to be
22 provided to the individual and so it's also got to be
23 in plain language.

24 MS. BUTLER: Understood, Your Honor.

25 THE COURT: Most people are not lawyers,

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right? So you don't want to, you don't want to track whatever language you have, you know, in an NDA that you have with your employees that they may sign, because that thing probably is three pages, four pages long or longer with all kinds of legalese, and that's really not going to be helpful to either side. So I think you want to have a simple but clear direction as to what is confidential, right?

MR. PEJIC: Yes, Your Honor, thank you.

THE COURT: Okay, so I'll issue this order and it will be, to the extent GE thinks that there's some serious issue with it, you can write to me and I'll consider a modification. But the order will be intended to protect each side's confidential and proprietary information and trade secrets, as well as privileged information.

Okay, so I think we are done with the issues that were in your letter. And going forward, just to repeat what you all need to do, over the next month I want you to focus on the document production and be prepared to report where you are and when you will be completed, you know, have greater clarity on that. I want you to limit your letter, your agenda letter to six pages and I want you to focus on this 595 patent

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issue so that you can determine whether that
counterclaim, the patent claim is coming out of the
case. Okay?

Anything further from plaintiffs?

MR. PEJIC: This is Mr. Pejic, Your Honor, I
don't believe so, thank you very much for your time.

THE COURT: Anything further from GE?

MS. BUTLER: Nothing from GE, Your Honor.

THE COURT: Okay, great. I hope everybody has
a good day, we're adjourned.

(Whereupon, the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of Spectrum Dynamics Medical Limited versus General Electric Company, et al., Docket #18cv11386, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature_____

Carole Ludwig

Date: February 26, 2021